

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
POLICY, RESEARCH AND TECHNICAL ASSISTANCE COMMITTEE

IN THE MATTER OF THE:)
)
POLICY, RESEARCH, AND)
TECHNICAL ASSISTANCE)
COMMITTEE MEETING)
_____)

DATE AND TIME: TUESDAY, NOVEMBER 4, 1997
9:30 A.M.

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
 CERTIFICATE NO. 7152

BRS FILE NO.: 42615

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APPEARANCES

MR. STEVEN R. JONES, CHAIRMAN
MR. DANIEL G. PENNINGTON, MEMBER
MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, EXECUTIVE DIRECTOR
MR. KEITH SMITH, DEPUTY DIRECTOR
MS. LIZ CLAYTON, LEGAL COUNSEL
MS. JEANNINE BAKULICH, COMMITTEE SECRETARY

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1 SACRAMENTO, CALIFORNIA; TUESDAY, NOVEMBER 4, 1997

2 9:30 A.M.

3

4 CHAIRMAN JONES: READY? GOOD MORNING AND
5 WELCOME TO THE TUESDAY, NOVEMBER 4TH MEETING OF THE
6 POLICY, RESEARCH, AND TECHNICAL ASSISTANCE
7 COMMITTEE.

8 JEANNINE, WOULD YOU CALL THE ROLL.

9 THE SECRETARY: BOARD MEMBER RELIS.

10 MEMBER RELIS: HERE.

11 THE SECRETARY: MEMBER PENNINGTON.

12 MEMBER PENNINGTON: HERE.

13 THE SECRETARY: CHAIRMAN JONES.

14 CHAIRMAN JONES: HERE.

15 DO ANY OF THE BOARD MEMBERS HAVE ANY
16 EX PARTES THAT THEY WOULD LIKE TO REPORT?

17 MEMBER RELIS: MR. CHAIR, I BELIEVE YOU
18 RECEIVED AND I'M REFERENCED IN A LETTER FROM A MR.
19 ERIC SUNSWEAT AND THAT GOT A COPY OF THIS MORNING.

20 CHAIRMAN JONES: RIGHT. AS DID, I THINK,
21 ALL THE BOARD MEMBERS GOT A COPY OF THAT.

22 ANY OTHERS? MR. CHAIRMAN? OKAY. IF
23 ANYBODY WANTS TO SPEAK ON THIS ITEM, THERE ARE

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24 SPEAKER SLIPS IN THE BACK OF THE ROOM. IF YOU
25 WOULD FILL IT OUT AND BRING IT UP TO MS. BAKULICH,

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1 WE WILL LET YOU SPEAK. OTHERWISE, WE'RE NOT SURE.

2 OKAY. OUR FIRST ITEM IS

3 CONSIDERATION OF A POLICY THAT WILL ESTABLISH

4 CRITERIA TO DETERMINE WHEN AND UNDER WHAT

5 CIRCUMSTANCES AN APPLICANT FOR A BOARD CONTRACT,

6 GRANT, OR LOAN SHOULD BE CONSIDERED UNRELIABLE AND

7 THEREFORE NOT AWARDED A CONTRACT, GRANT, OR LOAN.

8 MR. RICK BEARD AND MS. LIZ CLAYTON.

9 MR. BEARD: MR. CHAIRMAN AND COMMITTEE

10 MEMBERS, I'M RICK BEARD, THE FISCAL MANAGER FOR THE

11 BOARD. THIS ITEM THAT IS UP FOR YOUR CONSIDERATION

12 WAS BROUGHT FORWARD IN AUGUST ORIGINALLY. WE

13 PRESENTED THE ITEM THEN, AND THE COMMITTEE ASKED US

14 TO COME BACK WITH MORE INFORMATION ON IT, TO

15 DEVELOP IT FURTHER, LOOKING AT ITEMS SUCH AS

16 WORDING IN THE POLICY THAT WAS WRITTEN AND ALSO

17 CHECKING WITH OTHER STATE DEPARTMENTS TO SEE HOW

18 THEY DEAL WITH THIS PARTICULAR ISSUE ON CONTRACTS

19 AND NOT AWARDING CONTRACTS OR DEEMING CONTRACTORS

20 OR PEOPLE THEY'VE DEALT WITH ON CONTRACTS, GRANTS,

21 AND LOANS UNRELIABLE.

22 HAVING LOOKED AT SOME OTHER

23 DEPARTMENTS, NO OTHER DEPARTMENTS WE CONTACTED HAVE

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24 A SPECIFIC POLICY THAT DEALS WITH THIS. IN THEIR
25 CIRCUMSTANCES THEY DEAL IT WITH THROUGH THEIR

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1 RANKING CRITERIA THAT THEY USE FOR THE GRANTS AND
2 LOANS WHEN THE GRANTS AND LOANS COME IN.

3 BASED ON THE INFORMATION THAT WE
4 FOUND, WE ARE RECOMMENDING THAT EITHER THE ORIGINAL
5 POLICY BE ADOPTED OR THAT WORDING SIMILAR TO THE
6 POLICY BE PUT INTO THE RANKING CRITERIA WHEN WE
7 ACTUALLY RECEIVE GRANTS AND CONTRACTS AND GO
8 THROUGH THE PROCESS OF RATING THEM TO SEE WHICH ONE
9 WE WANT TO AWARD THE CONTRACT TO.

10 IF YOU WANT ME TO TALK FURTHER ON
11 THIS, I CAN. I DON'T KNOW IF I NEED TO GO FURTHER
12 INTO DETAIL SINCE IT'S A REVISIT. MYSELF AND LIZ
13 CLAYTON ARE HERE FOR ANY QUESTIONS.

14 CHAIRMAN JONES: OKAY. DO ANY OF THE
15 BOARD MEMBERS HAVE ANY QUESTIONS AT THIS TIME?

16 MEMBER PENNINGTON: MR. CHAIRMAN, I'D LIKE
17 TO MAYBE HAVE THEM EXPLAIN THE -- IF WE ADOPT IT AS
18 A POLICY, WHAT WOULD BE THE APPEALS PROCESS? IF WE
19 PUT SOMEBODY ON THE LIST AND THEY WANT TO OBJECT TO
20 THAT, WHAT IS THE PROCESS? WHERE WOULD THEY GO?
21 WHO WOULD THEY --

22 MR. BEARD: RIGHT NOW IF WE HAD A POLICY,
23 THEN THEY WOULD HAVE TO GET AN AGENDA ITEM

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24 FORWARDED SOMEHOW THROUGH ONE OF THE STAFF OR ONE
25 OF THE BOARD MEMBERS AND COME FORWARD THAT WAY.

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1 I THINK ONE RECOMMENDATION IS TO ADD
2 A PARAGRAPH TO OUR POLICY THAT WE HAVE WRITTEN TO
3 GIVE THEM THE OPTION OF COMING FORWARD IF THEY WANT
4 TO APPEAL THE DECISION THAT'S MADE AND BEING PUT ON
5 THIS LIST OR WHATEVER IT DEEMS TO BE.

6 MS. CLAYTON: IF I CAN ADD, I THINK THAT'S
7 A GOOD IDEA, ADDING A PARAGRAPH TO THE POLICY. AND
8 I WOULD SUGGEST THAT THERE WOULD BE TWO WAYS TO
9 APPEAL. ONE WOULD BE TO JUST PUT -- HAVE -- WRITE
10 A LETTER TO US, PUT A LETTER INTO THEIR FILE THAT
11 THEY'VE OBJECTED. AND THEY COULD DO THAT.

12 IF THEY ACTUALLY WANT TO APPEAL TO
13 THE BOARD TO ACTUALLY DECIDE, THEN THEY COULD BRING
14 AN ITEM FORWARD. BUT EITHER OPTION WOULD PUT AN
15 OBJECTION FROM THEM ON THE RECORD.

16 CHAIRMAN JONES: OKAY.

17 MEMBER PENNINGTON: GO AHEAD.

18 CHAIRMAN JONES: I THINK THAT ADDING THE
19 PARAGRAPH TO GIVE SOMEBODY THE, YOU KNOW, OPTION TO
20 FORMALLY APPEAL WILL GIVE THEM MORE OF A SENSE OF
21 FAIRNESS ABOUT THIS ISSUE, THAT THEY DO HAVE AN
22 OPTION TO BE ABLE TO COME BACK AND DETERMINE.
23 BECAUSE AS I UNDERSTAND, AND I THINK WHAT I'M --

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24 AFTER MORE QUESTIONS ARE DONE, I THINK WHAT I WOULD

25 LIKE IS, BECAUSE THIS POLICY HAS BEEN -- SINCE THE

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1 BRIEFINGS A FEW WORDS HAVE BEEN ADDED AND A FEW
2 THINGS HAVE BEEN DONE, I THINK WE'RE GOING TO NEED
3 TO READ THE POLICY OR IF YOU HAVE A CLEAN COPY THAT
4 YOU CAN GIVE OUT TO EVERYBODY. WE PROBABLY NEED TO
5 READ IT INTO THE RECORD SO THAT WE KNOW EXACTLY
6 WHAT IT IS WE'RE VOTING ON.

7 BUT I THINK AS LONG AS -- IF WE'RE
8 GOING TO CHANGE IN THE FIRST SENTENCE OF THE
9 PROPOSED POLICY THAT A BOARD SHALL NOT AWARD A
10 CONTRACT, GRANT, OR LOAN IF -- I THINK WE'RE GOING
11 TO CHANGE BOARD STAFF TO EXECUTIVE DIRECTOR; IS
12 THAT CORRECT?

13 MS. CLAYTON: THAT WAS THE SUGGESTION MADE
14 IN THE BRIEFING, THAT THE ACTUAL FINDING ON WHETHER
15 A PERSON WOULD BE FOUND UNRELIABLE UNDER THE POLICY
16 WOULD BE MADE BY THE EXECUTIVE DIRECTOR.

17 CHAIRMAN JONES: STAFF WOULD BRING IT
18 FORWARD TO THE E.D. AND THEN -- YEAH, SO THAT WAY
19 I THINK THAT IF THERE IS AN APPEAL PROCESS AT THE
20 END OF THE POLICY, THAT WOULD GIVE SOMEBODY FULL
21 CIRCLE, THAT, YOU KNOW, STAFF SAW IT AND WENT TO
22 THE EXECUTIVE DIRECTOR, AND THEN THEY COULD APPEAL
23 THE DECISION TO THE BOARD. MAKES SENSE TO ME.

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24 MEMBER PENNINGTON: MAKES SENSE TO ME TOO.

25 MS. CLAYTON: LET ME ADD A QUESTION; AND

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1 THAT IS, WHEN THE PERSON WOULD BE ABLE TO APPEAL.
2 IT SEEMS THAT THEY WOULD HAVE TWO OPTIONS, AND I
3 WOULD RECOMMEND PUTTING IN BOTH. THEY COULD APPEAL
4 EITHER AT THE TIME THAT THE FINDING WAS MADE. SO
5 LET'S SAY SOMEBODY DEFAULTS ON A BOARD LOAN AND WE
6 NOTIFY THEM, "YOU ARE IN DEFAULT. WE'RE MAKING A
7 FINDING THAT YOU ARE GOING TO GO ON THE LIST." AT
8 THAT TIME THEY CAN APPEAL. THEY CAN EITHER OBJECT,
9 PUT THAT IN THEIR FILE, THEY CAN APPEAL; OR AT THE
10 TIME THEY'RE ACTUALLY APPLYING FOR A FUTURE
11 CONTRACT, GRANT, OR LOAN, IF THERE HAS BEEN
12 SOMETHING IN THE PAST AND THEY'VE NOT OBJECTED TO
13 IT AT THAT TIME OR APPEALED, THEY COULD DO SO
14 RETROACTIVELY AS WELL.

15 CHAIRMAN JONES: BUT THEN I'VE GOT A
16 QUESTION. LET'S SAY THAT WE'VE GOT AN RFP GOES
17 OUT, YEAH, SAY AN RFP GOES OUT. AND IT'S
18 DETERMINED THROUGH THE CRITERIA THAT THEY FILLED
19 OUT A FORM. I'M ASSUMING THAT THE FORMS ARE GOING
20 TO INCLUDE QUESTIONS: HAVE YOU HAD ANY PROBLEMS
21 WITH STATE AGENCIES OR NOT FULFILLING CONTRACTS OR
22 THINGS LIKE THAT. SO WE'D HAVE TO AMEND SOME OF
23 OUR LANGUAGE IN RFP'S AND GRANTS AND LOANS.

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24 IF THEY FILL THAT OUT AND THEY ARE --

25 AND THE DETERMINATION IS MADE AT THAT POINT, THEN

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1 THEY COULD APPEAL IT. THAT DOESN'T HOLD UP THE
2 ISSUANCE OF THE GRANT, LOAN, OR RFP, DOES IT OR
3 WOULD IT?

4 MR. BEARD: IT COULD IF THEY HAD COME
5 FORWARD TO THE BOARD AND WAIT FOR A COMMITTEE ITEM
6 TO COME FORWARD AND THEN THE FULL BOARD TO CONVENE.
7 THAT'S TRUE, IT COULD DELAY THE PROCESS.

8 CHAIRMAN JONES: WOULD IT ONLY HAPPEN,
9 THOUGH, IF THEY WOULD HAVE BEEN RANKED NO. 1, YOU
10 KNOW, OTHER THAN THOSE ITEMS? BECAUSE I'D HATE TO
11 SEE, YOU KNOW, SOMEBODY USE THIS AS A TACTIC EVERY
12 TIME WE GET READY TO ISSUE AN RFP OR A GRANT OR A
13 LOAN, YOU KNOW.

14 MS. CLAYTON: LET ME JUST ADD THAT IF WE
15 PUT THIS AS EITHER A REFERENCE OR JUST REFER TO ALL
16 THE ITEMS IN THE POLICY IN AN RFQ OR A NOPA FOR
17 CONTRACTS AND GRANTS, IT ACTUALLY WOULDN'T APPLY TO
18 LOANS BECAUSE WE DON'T HAVE A RANKING SYSTEM, A
19 CRITERIA THAT GOES OUT FOR LOANS, WHICH I DON'T
20 THINK IS A PROBLEM BECAUSE WE ALREADY HAVE A REAL
21 COMPLETE APPLICATION THAT WOULD INCLUDE THESE
22 ITEMS.

23 THIS WOULD -- THE POLICY AS APPLIED

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24 TO LOANS WOULD MAKE IT MORE CLEAR-CUT. IT WOULD
25 CERTAINLY BE EASIER, SO AS WE'RE TALKING ABOUT

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1 ADDING THIS TO CRITERIA, IT ONLY APPLIES TO GRANTS
2 AND LOANS. I THINK THAT IF THE PERSON AT THE TIME
3 THEY APPLIED WANTED TO APPEAL AT THAT TIME, I THINK
4 IT WOULD HOLD IT UP. I THINK IT WOULD BE MORE
5 COMMON THAT THE ACTUAL TIME OF FINDING. SO WHEN
6 THE BOARD FOUND OUT THAT AN AUDIT HAD BEEN DONE AND
7 THERE WAS A CONFIRMED FINDING OF FRAUD OR THERE WAS
8 A BANKRUPTCY FILED OR SOME SORT OF A DEFAULT ON A
9 BOARD AGREEMENT, THAT AT THAT TIME WE WOULD MAKE
10 THE FINDING FOR FUTURE CONTRACTS, GRANTS, OR LOANS,
11 AND THEY COULD APPEAL AT THAT TIME.

12 AND THAT, OF COURSE, WOULDN'T HOLD UP
13 THE PROCESS; BUT IF THE FINDING WERE MADE AT THE
14 TIME OF THE APPLICATION, IT WOULD HOLD IT UP.

15 MEMBER PENNINGTON: SO WOULD WE WANT TO
16 HAVE A TIME FRAME THERE THEN? SAY WE NOTIFY THEM
17 THAT WE'VE MADE A FINDING THAT YOU ARE A BAD BOY
18 AND WE GIVE YOU 60, 90 DAYS TO APPEAL THIS.

19 MR. BEARD: MAYBE IF I COULD SUGGEST THAT
20 WHENEVER WE HAVE A FINDING LIKE IN AN AUDIT,
21 THEY'RE ALWAYS GOING TO GET -- WE'RE GOING TO HAVE
22 AUDIT FINDINGS AND THEY'RE GOING TO GET THEIR
23 CHANCE TO RESPOND TO OUR FINDINGS, SO THEY'RE

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24 ALWAYS GOING TO HAVE THAT ABILITY. AND THEN

25 THEY'LL GET A COPY OF THE FINAL OPINION STATEMENT

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1 THAT WE PUT FORWARD.

2 ALSO, WITH THE CONTRACT, IF WE DECIDE
3 TO TERMINATE A CONTRACT, THEY'RE GOING TO HAVE THE
4 SAME REBUTTAL PERIOD, SO THEY'RE GOING TO KNOW
5 WHAT'S GOING ON. AND MAYBE IF WE GET TO THE POINT
6 WHERE THE EXECUTIVE DIRECTOR HAS DEEMED THAT, YES,
7 THIS PERSON IS SOMEBODY WHO WE WANT TO PUT ON THIS
8 UNRELIABLE POINT, AT THAT POINT, LIKE MR.
9 PENNINGTON SUGGESTED, WE COULD HAVE LIKE 60 DAYS TO
10 FILE AN APPEAL WITHIN THAT TIME. AFTER THE
11 EXECUTIVE DIRECTOR HAS MADE HIS DECISION, THEN WE
12 COULD NOTIFY THEM OR SOMETHING TO LET THEM KNOW
13 THEY HAVE 60 DAYS TO APPEAL THIS DECISION.

14 MS. CLAYTON: OR WE COULD SAY THEY HAVE TO
15 APPEAL IT AT THE NEXT POLICY COMMITTEE, AND THEN
16 THE -- IT WOULD GO TO THE NEXT BOARD MEETING AS
17 APPROPRIATE. SO THAT WAY WILL GIVE US FLEXIBILITY
18 IN TERMS OF DATES. IF THE NEXT POLICY COMMITTEE
19 WAS IN A WEEK, THEY COULDN'T MAKE IT. BUT TYING
20 DOWN TO 30, 60 DAYS SOMETIMES IS HARD WHEN WE'VE
21 GOT AGENDA ITEM DEADLINES.

22 CHAIRMAN JONES: THAT WOULDN'T MAKE SENSE.

23 MEMBER PENNINGTON: WE OUGHT TO HAVE SOME

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24 SORT OF TIME SPECIFIC OR SOME TIME FRAME THERE

25 BECAUSE, YOU KNOW, A YEAR LATER THEY COULD COME

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1 BACK AND SAY, "WELL, I'VE DECIDED TO APPEAL THIS
2 NOW."

3 CHAIRMAN JONES: YOU WANT TO DO IT AT THE
4 NEXT POLICY?

5 MEMBER RELIS: I HAVE A COUPLE OF
6 QUESTIONS.

7 CHAIRMAN JONES: WE HAVE ONE SPEAKER.

8 MEMBER RELIS: I THOUGHT I WOULD WAIT AND
9 JUST HEAR THE SPEAKER.

10 CHAIRMAN JONES: WE DO HAVE ONE SPEAKER.
11 IT IS MR. MICHAEL BRYNE.

12 MR. BYRNE: THANK YOU, MR. CHAIRMAN.
13 MICHAEL BRYNE REPRESENTING OXFORD TIRE. THIS
14 BLACKLISTING, I GUESS, IS SOMETHING I'VE NEVER
15 HEARD OF IN STATE GOVERNMENT. I WORKED FOR THE
16 STATE PERSONALLY FOR 23 YEARS. AND IT SEEMS TO ME
17 TO BE A VERY DANGEROUS PRECEDENT, AN AWFUL SLIPPERY
18 SLOPE, THAT THE EXECUTIVE DIRECTOR COULD, I GUESS,
19 SUBJECTIVELY PUT PEOPLE ON A BLACKLIST AND SAY,
20 "OKAY. THIS PERSON IS PERSONA NON GRATA UNTIL SUCH
21 TIME AS THEY APPEAL AND GO BEFORE YOU TO KIND OF
22 CLEAR THEIR NAME." IS THAT WHAT I'M HEARING, THE
23 PROCESS? SO YOU ARE GUILTY UNTIL PROVEN INNOCENT,

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24 I GUESS, UNDER THIS SITUATION. THAT'S MY FIRST
25 COMMENT. AND ALSO I HAVE A CONCERN ABOUT POLITICS

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1 AND PERSONALITIES AND ALL THAT.

2 AND SECOND CONCERN IS IS SUCH
3 BLACKLISTING GOING TO BE DONE ON A KIND OF A
4 GERMANE BASIS? SO USING A REAL HYPOTHETICAL
5 SITUATION, IF A COMPANY HAD PROBLEMS WITH THEIR
6 PERMIT, WOULD THAT EQUATE TO THEM BEING PERSONA NON
7 GRATA AS FAR AS A CLEANUP CONTRACT? IS THERE GOING
8 TO BE -- ARE THE PROBLEMS GOING TO BE CORRELATED
9 WHEN YOU MAKE THE BLACKLIST, OR ARE THEY GOING TO
10 BE JUST THAT WE DON'T HAVE CONFIDENCE IN THIS
11 COMPANY; SO THEREFORE, WE DON'T TO WANT TO DO
12 BUSINESS WITH THEM?

13 MEMBER PENNINGTON: I THINK THAT IT'S NOT
14 A LACK OF CONFIDENCE. IT'S A SITUATION WHERE, AS
15 THE POLICY SPELLS OUT, THAT WHERE THERE IS SOME
16 INFRACTION THAT TAKES PLACE, A MAJOR INFRACTION
17 TAKES PLACE, THAT A FINDING IS THEN MADE THAT THESE
18 PEOPLE ARE UNRELIABLE.

19 AND IT'S CERTAINLY IN MY MIND THAT
20 IF, YOU KNOW, IF THE COMPANY CAN'T FULFILL THE
21 REQUIREMENTS OF THEIR PERMIT, WHY WOULD WE WANT TO
22 ALSO SUSPECT THAT THEY WOULD BE RELIABLE TO CARRY
23 OUT SOME OTHER TRANSACTION WITH US, PARTICULARLY IF

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24 THERE'S SOME WILLFUL DISREGARD?

25 MR. BYRNE: I CAN APPRECIATE THAT CONCERN,

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1 BUT WHAT IT DOES IS IT GIVES LARGE COMPANIES OR
2 FINANCIALLY STRONG COMPANIES A MUCH STRONGER
3 POSITION THAN SMALL COMPANIES AND COMPANIES THAT
4 ARE, SAY, FINANCIALLY STRAPPED. THE EXXON VALDESE
5 WAS A TERRIBLE ENVIRONMENTAL DISASTER AND IT WAS
6 ONE OF THE WORST THAT, I THINK, PACIFIC OCEAN HAS
7 SEEN, BUT YET STATE OF CALIFORNIA, I'M SURE, IS
8 DOING BUSINESS TODAY WITH THE EXXON CORPORATION.

9 YOU KNOW, IT'S A SMALL COMPANY AND,
10 YOU KNOW WHAT I'M TALKING ABOUT, YOU KNOW,
11 FINANCIALLY STRAPPED, HAD DIFFICULTIES MAKING
12 PAYMENTS, OR WHATEVER, IS THAT IN ITSELF AN
13 INDICATION IT'S NOT GOING TO BE ABLE TO MEET THE
14 GUIDELINES AND REQUIREMENTS OF A, YOU KNOW, LIKE I
15 SAY, A CLEANUP CONTRACT?

16 CHAIRMAN JONES: WELL, YOU KNOW, PART OF
17 THE CRITERIA TO FIND IF SOMEBODY IS UNRELIABLE,
18 UNTRUSTWORTHY, OR INCOMPETENT OR IRRESPONSIBLE IS
19 THAT THE INVESTIGATION FOR FRAUDULENT CLAIMS IS ONE
20 OF THEM.

21 MR. BYRNE: I'M COMFORTABLE WITH THAT.

22 CHAIRMAN JONES: OKAY. THAT -- ANOTHER
23 ONE IS DEFAULT ON A LOAN. ANOTHER ONE IS THAT LOAN

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24 COLLATERAL WAS EITHER FORECLOSED ON OR PERSONAL
25 PROPERTY COLLATERAL WAS REPOSSESSED. FAILED TO

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1 COMPLY WITH THE TERMS AND CONDITIONS OF A PREVIOUS
2 CONTRACT, GRANT, LOAN, OR SUBCONTRACT. SO THAT'S
3 NOT A PERMIT.

4 MR. BYRNE: OKAY.

5 CHAIRMAN JONES: FILED VOLUNTARY OR
6 INVOLUNTARY BANKRUPTCY, CONVICTED OF A CRIME. THE
7 BOARD STAFF FINDS THAT BASED ON SUBSTANTIAL
8 EVIDENCE THE CRIME INTERFERED WITH THE CONTRACT,
9 THE GRANT, THE LOAN, OR THE SUBCONTRACT.

10 MR. BYRNE: SO GERMANE.

11 CHAIRMAN JONES: SO IT'S GERMANE. AND
12 CURRENTLY IN VIOLATION OF ANY BOARD STATUTE OR
13 REGULATION WITH THE EXCEPTION OF GRANTS AWARDED.
14 THAT ONE HAD ME CONCERNED BECAUSE, YOU KNOW, IF YOU
15 HAVE A LITTER VIOLATION, YOU, IN FACT, ARE IN
16 VIOLATION OF A STATE REGULATION. BUT I THINK THAT
17 THERE IS -- THIS IS A COMMON SENSE ISSUE WHERE BY
18 PUTTING IT, YOU KNOW, TO THE EXECUTIVE DIRECTOR AND
19 THEN HAVING IT BE ALLOWED TO COME IN FRONT OF THE
20 BOARD OR IN FRONT OF THE COMMITTEE OR THE BOARD,
21 HOWEVER WE'RE GOING TO DO IT ON THE APPEAL, LITTER
22 VIOLATION ISN'T GOING TO KEEP SOMEBODY FROM DOING
23 ITS JOB.

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24 BUT SOMEBODY THAT HAS FILED A CLAIM,
25 A FRAUDULENT CLAIM, TO THIS AGENCY OR ANY OTHER

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1 AGENCY, AND FOR US TO TURN AROUND AND AWARD THAT
2 PERSON, YOU KNOW, HALF A MILLION DOLLARS, MILLION
3 DOLLARS, \$5 MILLION, WHATEVER, TO ME IS PRETTY
4 STUPID. YOU KNOW WHAT I MEAN?

5 MR. BRYNE: I AGREE WITH THAT A HUNDRED
6 PERCENT.

7 CHAIRMAN JONES: I THINK THE CRITERIA IS
8 GERMANE TO PERFORMANCE, THAT IF YOU ARE
9 INCOMPETENT, IF YOU'RE UNTRUSTWORTHY, IF YOU'RE
10 UNRELIABLE. AND I THINK THAT SMALL COMPANIES
11 ACTUALLY HAVE AN ADVANTAGE UNDER THIS CRITERIA
12 BECAUSE MOST SMALL COMPANIES END UP KNOWING THAT
13 THEIR PERFORMANCE -- THEIR PERFORMANCE GETS -- IS
14 THEIR BREAD AND BUTTER EVERY DAY OF THE WEEK. IT'S
15 THEIR BEING ABLE TO COMPLY WITH PROVIDING THOSE
16 SERVICES. BIG COMPANIES SOMETIMES GET LOST IN THE
17 MINUTIAE WHERE SOMEBODY DOES SOMETHING WRONG AND
18 NOBODY KNOWS ABOUT IT. SO I DON'T SEE THIS AS THAT
19 KIND OF A --

20 MR. BYRNE: WELL, MR. CHAIRMAN, I GOT A
21 NOTICE OF THE ITEM, BUT I DON'T HAVE THE POLICY
22 STATEMENT. MAYBE IF I GET A COPY OF THAT, I'LL BE
23 OKAY.

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24 MR. BEARD: IF I CAN INTERJECT, ONE OF THE
25 THINGS ON THE WORDING USED TO SAY THE BOARD STAFF

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1 SHALL MAKE THIS FINDING BASED ON THE ITEMS LISTED
2 BELOW, BUT THAT WAS CHANGED TO MAY BE BASED ON SOME
3 PREVIOUS LANGUAGE TO MAKE IT MORE PERMISSIVE AND
4 GIVE THE DIRECTOR MORE LATITUDE AND LEEWAY SO
5 LITTER VIOLATIONS AND SO FORTH DON'T CONDONE HAVING
6 THIS SERIOUS OF OFFENSE.

7 CHAIRMAN JONES: RIGHT. OKAY. MR.
8 RELIS.

9 MEMBER RELIS: WELL, I'D LIKE TO GO BACK A
10 BIT AND FIRST LOOK AT THE ANALYSIS STAFF DID. I
11 KNOW SEVERAL OF US -- I DON'T REMEMBER WHO. I
12 THINK I ASKED THE QUESTION WHAT DO OTHER STATE
13 AGENCIES DO. AND YOU'VE DONE SOME RESEARCH HERE.
14 AND WHAT'S YOUR CONCLUSION? THE WAY I READ IT IS
15 OTHER STATE AGENCIES DON'T HAVE SUCH A POLICY. CAN
16 YOU TELL ME WHY THEY DON'T?

17 MR. BEARD: THE STATE AGENCIES THAT WE
18 CONTACTED AND TALKED TO FELT THAT THEY CAN HANDLE
19 THE SITUATION WITHIN THEIR RANKING CRITERIA, THAT
20 THEY COULD ADDRESS IT THERE.

21 MEMBER RELIS: COULD YOU ELABORATE?

22 MR. BEARD: WELL, YOU COULD HAVE PREVIOUS
23 DEALINGS WITH YOUR DEPARTMENT BE WORTH A LOT OF

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24 POINTS. AND IF THERE WAS THREE OR FOUR TIMES

25 YOU'VE DEALT WITH THE COMPANY AND IT WASN'T

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1 FAVORABLE, THEN THEY WOULDN'T SCORE VERY HIGH IN
2 THAT AREA. SO YOU COULD BUILD IT INTO YOUR RANKING
3 CRITERIA WHEN YOU ARE RANKING CONTRACTS, GRANTS, SO
4 FORTH FOR AWARDS.

5 MEMBER RELIS: SO YOU WOULD -- YOU WOULD,
6 WHAT, INCORPORATE SOME OF THE POLICY, THE BASIC
7 ELEMENTS OF THE POLICY AND HAVE THAT BE A
8 RANKING -- LUMPED INTO A RANKING CRITERIA?

9 MR. BEARD: CORRECT.

10 MEMBER RELIS: OKAY.

11 MR. BEARD: SOME DEPARTMENTS DIDN'T EVEN
12 FEEL THAT IT WAS AN ISSUE FOR THEM. I MEAN A FEW
13 DEPARTMENTS WE TALKED TO, IT JUST -- IT WASN'T AN
14 ISSUE.

15 MEMBER RELIS: LET ME EXPLORE THAT PART
16 WITH THE COMMITTEE MEMBERS. I'M STILL SEARCHING
17 FOR THE ANSWER TO WHAT IS THE PROBLEM THAT WE'RE
18 TRYING TO ADDRESS THAT WOULD REQUIRE A POLICY AS
19 OPPOSED TO A CRITERIA OR -- BECAUSE, FRANKLY, JUST
20 ON THE READ OF THE CRITERIA AS NOW ESTABLISHED
21 UNDER (C) AND THEN (D) -- I'M SORRY -- (D), LETTER
22 D UNDER SECTION -- UNDER NO. 2 OF THE POLICY,
23 FAILED TO COMPLY WITH THE TERMS AND CONDITIONS OF A

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24 PREVIOUS BOARD CONTRACT, GRANT, LOAN, OR
25 SUBCONTRACT.

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1 BOY, I WOULD HAVE TO AGREE WITH THE
2 COMMENTS JUST MADE, THAT IF YOU -- YOU COULD TAKE
3 SOME LIBERTIES WITH THAT BROAD A SWEEP THAT COULD
4 LEAVE A LOT OF CONTRACTORS VERY ANXIOUS ABOUT
5 WHETHER THEY'RE ON THE DOWNSIDE OF OUR -- YOU KNOW,
6 OF OUR LIST OR WHATEVER IT IS. I MEAN WHAT WOULD
7 THAT MEAN.

8 LET'S SUPPOSE WE HAD A DISAGREEMENT
9 OVER A CONTRACT PROVISION ON WHETHER A CONTRACTOR
10 COMPLIED OR NOT. THAT HAPPENS ALL THE TIME.

11 NOW, NORMALLY THAT'S IRONED OUT OR IT
12 MIGHT LEAVE BAD FEELINGS. LET'S JUST SAY LEAVES
13 BAD FEELINGS WITH OUR STAFF, THAT THE CONTRACTOR
14 DID NOT FULLY DO WHAT THEY SAID THEY WERE GOING TO
15 DO. THE CONTRACTOR FEELS THEY DID DO. DOES THIS
16 MEAN THEY'RE -- THEY ARE ON A LIST AND THEY -- THAT
17 THE EXECUTIVE OFFICER WOULD HAVE THE LATITUDE,
18 BASED ON A COMMENT MADE BY A STAFF MEMBER, SAY
19 THEY'RE NOT QUALIFIED.

20 THAT WOULD WORRY ME, FRANKLY, BECAUSE
21 I THINK I'VE BEEN IN THAT POSITION OF BEING A
22 CONTRACTOR BEFORE, AND THERE ARE ALWAYS
23 DISAGREEMENTS THAT COME UP, BUT I WOULDN'T THINK

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24 THAT THOSE DISAGREEMENTS WOULD PUT ME ON A LIST.

25 I DO BELIEVE FRAUD WOULD WITHOUT A

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1 DOUBT. PROBABLY DEFAULTING ON A LOAN, DEFINITELY.
2 YOU KNOW, THAT WOULDN'T ENDEAR ONE TO AN AGENCY
3 THAT THEY SEEKED A CONTRACT WITH. OR FORECLOSURE,
4 YES, I GUESS. I DON'T KNOW EVEN IN THESE -- THE
5 EXTENT OF FORECLOSURE AND BANKRUPTCY, ARE WE
6 SETTING OURSELVES EVEN BEYOND WHAT -- YOU KNOW, IN
7 BUSINESS PRACTICE YOU'RE -- PEOPLE GO INTO
8 BANKRUPTCY AND THESE THINGS HAPPEN.

9 DOES THAT MEAN WE'RE EXERCISING A
10 CRITERIA THAT IS BEYOND THAT OF NORMAL BUSINESS
11 PRACTICE? YOU KNOW, AFTER SO MANY YEARS SOMEONE IS
12 SORT OF RELIEVED OF THEIR BANKRUPTCY OBLIGATION.

13 A CRIME, OBVIOUSLY. BUT THEN THE
14 LAST ONE, (G), CURRENTLY IN VIOLATION OF ANY BOARD
15 STATUTE OR REGULATION. GOSH, I MEAN WE PROBABLY
16 HAVE HUNDREDS OF ENTITIES SOMEWHERE TIED IN. HOW
17 WOULD WE DETERMINE THAT? WHAT KIND OF STAFF LOAD
18 WOULD THAT REPRESENT? WHAT'S THAT OPEN UP?

19 THAT'S THOSE TWO AREAS. (F) -- I'M
20 SORRY -- (D) AND (G) ARE FRANKLY SCARY TO ME IN
21 TERMS OF HOW THAT WOULD BE MANAGED INTERNALLY.
22 COULD BE ABUSED BADLY.

23 MEMBER PENNINGTON: MR. CHAIRMAN, I THINK

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24 YOU'RE RIGHT, THAT IT COULD BE. I THINK WE'RE ALL
25 CONCERNED ABOUT THAT. I THINK ONE OF THE REASONS

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1 THAT I KIND OF LEAN TOWARDS THE POLICY AS OPPOSED
2 TO HAVING IT AS A CRITERIA IS BECAUSE THE POLICY
3 REQUIRES THAT THE EXECUTIVE DIRECTOR MAKE A
4 FINDING; WHERE IF YOU LEAVE IT IN THE CRITERIA
5 STAGE, IT'S LEFT TO THE STAFF TO MAKE A DECISION.
6 PLUS THERE ISN'T REALLY AN APPEALS
7 PROCESS; WHERE WITH THE POLICY, THERE IS AN APPEALS
8 PROCESS. IF YOU FEEL THAT YOU ARE UNJUSTLY BEING
9 ACCUSED OF IMPROPER ACTIONS, YOU HAVE A RIGHT TO
10 BRING IT TO THE BOARD, AND WE'LL DECIDE WHETHER OR
11 NOT THE APPROPRIATE ACTION WAS TAKEN.
12 MEMBER RELIS: BUT THAT WOULD RAISE THE
13 QUESTION, MR. PENNINGTON, OF -- I CAN SEE WITH
14 FRAUD, DEFAULT, FORECLOSURE. YOU KNOW, THOSE ARE
15 THE -- THERE'S SOME BIG ONES IN THERE. THOSE ARE
16 CRIME. WHY WOULD WE NEED A CRITERIA, FAIL TO
17 COMPLY WITH THE TERMS AND CONDITIONS? ISN'T
18 THAT -- COULDN'T THAT BE IN THE ASSESSMENT OF A --
19 I MEAN THAT'S SORT OF PAST PERFORMANCE THAT'S A
20 DIFFERENT CATEGORY THAN I THINK OF AS FRAUD AND
21 BANKRUPTCY. AND, YOU KNOW, SEEMS LIKE THAT HAS --
22 THOSE HAVE A MAGNITUDE THAT COMPLY -- COMPLIANCE
23 WITH A TERM AND CONDITION OF A CONTRACT MAY OR MAY

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24 NOT. AND THEN, YES --

25 MEMBER PENNINGTON: I MEAN IF THEY TOLD US

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1 THEY WERE GOING TO BUY SOMETHING, BUY A COMPACTOR
2 AND THEY BOUGHT A TRUCK WITH IT, THAT WOULD BE NOT
3 WITHIN THE TERMS OF THE CONTRACT.

4 MEMBER RELIS: BUT THAT WOULD BE --
5 WOULDN'T THAT BE UNDER -- WHAT WAS THAT ONE I
6 SAW? -- FRAUD?

7 MEMBER PENNINGTON: PERHAPS, IF YOU COULD
8 GET THE DISTRICT ATTORNEY TO AGREE WITH THAT.

9 MEMBER RELIS: WELL, I'M JUST -- AGAIN,
10 I'M JUST EXPLORING THIS BECAUSE I'M TRYING TO
11 FIGURE OUT --

12 MEMBER PENNINGTON: NO.

13 MEMBER RELIS: THE STATE HAS BEEN IN
14 BUSINESS A LONG TIME. EVERY PROBLEM THAT COULD BE
15 IMAGINED HAS COME BEFORE THE STATE AT ONE TIME OR
16 ANOTHER. PEOPLE RIPPING OFF THE TERMS AND
17 CONDITIONS, VIOLATING, A CRIMINAL ACTION, WE'VE GOT
18 IT ALL HERE. SO WHAT -- AND WE HAVE OTHER STATE
19 AGENCIES THAT HAVE GONE THROUGH THE SAME BUSINESS
20 AND THEY HAVE A DIFFERENT VENUE.

21 CHAIRMAN JONES: BUT I DON'T KNOW IF
22 THEY'RE BOARDS.

23 MEMBER RELIS: TELL ME WHAT THE DIFFERENCE

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24 IS. THAT'S WHAT I'M STILL TRYING TO GET TO.

25 CHAIRMAN JONES: TO ME, LIKE IF YOU GO TO

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1 GSA, OKAY, THAT IS NOT A BOARD; THAT'S A DEPARTMENT
2 OF THE STATE. SO YOU'VE GOT AN EXECUTIVE DIRECTOR
3 AND YOU'VE GOT THAT SIMILAR TO DTSC. AND SOME
4 STAFFER SAYS, "WHEN I REAPPLIED THE SECOND TIME, HE
5 SAYS THIS GUY IS NOT GOING TO GET IT BECAUSE HE
6 DIDN'T COMPLY WITH ONE OF THE CONDITIONS." NOBODY
7 EVER HEARS ABOUT THAT. AND HE JUST DOESN'T GET
8 RANKED HIGH ENOUGH, OR I DON'T GET RANKED HIGH
9 ENOUGH TO EVEN COMPETE. I DON'T KNOW ABOUT IT
10 BECAUSE IT WAS A STAFF DECISION MADE INSIDE OF A
11 DEPARTMENT.

12 MEMBER RELIS: SO YOU ARE SAYING --

13 CHAIRMAN JONES: THIS, I THINK, IS FAIRER
14 BECAUSE IT SAYS WE'RE GOING -- YOU KNOW, THESE ARE
15 THE CONDITIONS THAT YOU ARE GOING TO HAVE TO
16 PERFORM TO. AND IF THE FINDING OF THE STAFF WHICH
17 BRINGS IT TO THE EXECUTIVE DIRECTOR SAYS YOU ARE
18 UNTRUSTWORTHY AND THE EXECUTIVE DIRECTOR MAKES THAT
19 DETERMINATION AND SAYS YOU ARE UNRELIABLE, YOU ARE
20 UNTRUSTWORTHY, AND THAT PERSON WANTS TO COME IN
21 FRONT OF THE BOARD, THEN THAT PERSON COMES IN FRONT
22 OF SIX OF US. SAYS WAIT A SECOND. HERE'S THE
23 ISSUE.

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24 YOU KNOW, I THINK IT'S A MORE OPEN --

25 I'D RATHER TAKE MY CHANCES IN FRONT OF A FULL BOARD

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1 BEING ABLE TO DISCLOSE MY ISSUES THAN IN FRONT OF A
2 DEPARTMENT --

3 MEMBER RELIS: THAT I UNDERSTAND.

4 CHAIRMAN JONES: -- WHERE IT'S A CRITERIA
5 THAT IS ONLY GOING TO BE WHOEVER THOSE TWO OR THREE
6 STAFF PEOPLE ARE TO MAKE THE DETERMINATION.

7 MEMBER RELIS: SO, STEVE, YOUR POINT IS
8 THAT BECAUSE WE ARE A BOARD, THERE'S A DIFFERENT
9 FRAMEWORK. NOW, DID YOU CHECK WITH THE WATER
10 BOARD, FOR INSTANCE?

11 MR. BEARD: NO, WE DIDN'T CHECK WITH THEM.

12 MEMBER RELIS: I MEAN I'M JUST LOOKING FOR
13 AN ANALOGOUS SITUATION. WHAT HAVE THEY FOUND?
14 THEY'RE A BOARD LIKE WE ARE.

15 MEMBER PENNINGTON: DIFFERENT KIND OF A
16 BOARD.

17 MEMBER RELIS: I DON'T HAVE -- I HAVE AN
18 OPEN MIND ON THIS. I JUST WANT TO SAY, BUT I'M
19 VERY NERVOUS ABOUT (D) AND (G). I JUST THINK YOU
20 COULD RUN A TRAIN THROUGH THOSE -- THROUGH THAT
21 LANGUAGE. AND IF YOU WERE OUT, AND THIS IS NO
22 REFLECTION ON OUR STAFF, I JUST THINK IT'S A CHECK
23 AND BALANCE ISSUE. IT'S, WELL, GOSH, IF I HAD

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24 LANGUAGE LIKE THAT, THAT COULD DING ME FROM A
25 PROJECT, THEN I WOULD FEEL POTENTIALLY TYRANNIZED.

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1 CHAIRMAN JONES: THAT WAS MY CONCERN WAS
2 THAT, YOU KNOW, YOU GET A LITTER VIOLATION, YOU GET
3 ANY OF THOSE VIOLATIONS, THAT'D KEEP YOU FROM EVER
4 APPLYING FOR A LOAN OR A GRANT. I'M ASSUMING IT
5 DOESN'T. YOU KNOW, I'M ASSUMING THAT IT IS -- I'M
6 ASSUMING THAT UNLESS I'M A CHRONIC VIOLATOR AT
7 WHICH POINT --

8 MEMBER RELIS: ON FACE VALUE YOU CAN'T
9 ASSUME THAT WITH THE LANGUAGE THAT'S HERE, AS I
10 READ IT.

11 MS. CLAYTON: THE WAY I SEE IT, WE HAVE
12 TWO OPTIONS. ALL OF THE ITEMS (A) THROUGH (G), WE
13 CAN ELIMINATE ANY OF THOSE AS THE BOARD WOULD
14 DIRECT US OR WE CAN LEAVE IT IN.

15 THE ARGUMENT FOR LEAVING IT IN IS I
16 THINK THAT CHECKS AND BALANCES, THE FAIRNESS IS
17 THERE FOR TWO REASONS. FIRST OF ALL, THE FINDING
18 IS NOT MANDATORY. WE'VE CHANGED THE SHALL TO MAY,
19 SO IF THERE IS A LITTER VIOLATION, IF SOMEBODY HAS
20 TRULY FAILED TO COMPLY WITH THE TERMS AND
21 CONDITIONS OF A PREVIOUS BOARD CONTRACT, THEN THERE
22 ISN'T NECESSARILY A FINDING OF UNRELIABILITY
23 AUTOMATICALLY. IT'S UP TO BOARD STAFF AND FINALLY

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24 THE EXECUTIVE DIRECTOR.

25 MEMBER RELIS: LET ME ADD, MY POINT IS

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1 THAT WOULDN'T THOSE FACTORS NORMALLY -- I MEAN THAT
2 GOES INTO ANY EVALUATION. OUR CONTRACT OFFICERS
3 HAVE A WORKING EXPERIENCE WITH A CONTRACTOR.

4 MR. BEARD: EXCEPT THAT THE PEOPLE WHO ARE
5 GOING TO BE RANKING THESE CONTRACTS, MAYBE SOMEBODY
6 IN MARKETS DEALT WITH SOMEBODY WHO WAS UNRELIABLE
7 OR THEY FELT WAS OR THEY HAD TO CANCEL A CONTRACT.
8 WELL, THEN, PERMITTING AND ENFORCEMENT DEALS WITH
9 THE SAME PEOPLE. THEY DON'T HAVE THAT KNOWLEDGE.
10 THE CONTRACT PEOPLE GET THE REQUEST IN AND THE BID
11 PROPOSALS, AND THEN YOU HAVE A GROUP THAT WOULD
12 REVIEW THOSE. SO THERE'S LIKE -- THERE'S NO --
13 THERE'S NO COMMON SHARED KNOWLEDGE, I GUESS, IS THE
14 KEY.

15 MEMBER RELIS: SO WHAT WOULD HAPPEN TO
16 PICK UP THAT KNOWLEDGE UNDER THIS POLICY?

17 MR. BEARD: THE LIST WOULD BE DEVELOPED
18 AND THERE WOULD BE THE CONTRACT OFFICE AND GRANT
19 UNIT WOULD HAVE THIS LIST TO GIVE TO PEOPLE WHO
20 WOULD USE THAT AS PART OF THEIR CRITERIA WHEN
21 THEY'RE LOOKING AT THE RANKINGS.

22 MEMBER PENNINGTON: AND THE EXECUTIVE
23 DIRECTOR'S OFFICE WOULD HAVE THAT KNOWLEDGE, FILTER

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24 UP.

25 CHAIRMAN JONES: IF THE COMMITTEE MEMBERS

27

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1 DON'T MIND, MICHAEL WANTED TO ADD SOMETHING.

2 MR. BYRNE: YOU KNOW, THERE'S ALSO AN

3 OUTSIDE, I THINK, ECONOMIC IMPACT THAT SHOULD BE

4 CONSIDERED HERE. AND I WOULD HOPE MY COMPANY NEVER

5 MAKES IT TO THIS LIST. SAY THEY DIDN'T MAKE IT TO

6 THIS LIST, BUT THREE OF OUR COMPETITORS DID. I'D

7 RUN UP AND DOWN THE STATE GOING, "LOOK AT THESE

8 GUYS. YOU DON'T WANT TO DO BUSINESS WITH THESE

9 GUYS. YOU WANT TO DO BUSINESS WITH SOMEBODY THAT'S

10 NOT BEEN BLACKLISTED BY THE INTEGRATED WASTE

11 MANAGEMENT BOARD," YOU KNOW.

12 SO SIX MONTHS GO BY AND THEY APPEAL

13 TO THE BOARD AND THEY GET OFF THE LIST AND

14 EVERYTHING ELSE. I IMAGINE THERE COULD BE A GOOD

15 TURN IN BUSINESS, YOU KNOW, IN THAT MEANTIME. YOU

16 KNOW, PEOPLE COULD BE USING THAT LIST FOR VERY

17 NEFARIOUS PURPOSES, YOU KNOW. IT'S KIND OF A I

18 WON'T SAY BACK STABBING WORLD OUT THERE, BUT, YOU

19 KNOW, IT'S GOT ITS MOMENTS.

20 MEMBER PENNINGTON: LET ME ASK YOU THIS.

21 IF YOUR BUSINESS KNEW THAT THERE WAS SUCH A LIST,

22 WOULD YOU NOT BE MORE CAREFUL TO MAKE SURE YOU

23 DIDN'T GET ON THAT LIST?

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24 MR. BYRNE: OH, YOU KNOW, WITHOUT
25 QUESTION. WITHOUT QUESTION, YOU KNOW. BUT LIKE I

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1 SAY, I GUESS THE PROBLEM I HAVE IS THE SUBJECTIVE
2 NATURE, YOU KNOW. YOU KNOW, I GUESS I HAVE NO
3 PROBLEM WITH FRAUD. I HAVE NO PROBLEM WITH, YOU
4 KNOW, A LOT OF THE ASPECTS. LIKE I SAY, MAYBE I'LL
5 READ THE POLICY AND I'LL HAVE NO PROBLEM WITH ANY
6 OF IT, BUT, YOU KNOW, IT'S LIKE THERE'S A JUDGE
7 GAVEL GUILTY AND AS SOON AS THEY GAVEL GUILTY, THEN
8 THAT'S WHAT GETS YOU ON THE LIST, OR IS IT JUST
9 THE, WELL, THERE WAS AN INVESTIGATION OR, YOU KNOW,
10 AT WHAT POINT IN TIME DOES THE CRIME BECOME REAL,
11 YOU KNOW?

12 MEMBER PENNINGTON: WELL, I MEAN I THINK
13 THAT WE ENVISION THAT IT WOULD BE DONE IN A MUCH
14 MORE THOUGHTFUL MANNER THAN JUST HE'S A RASCAL.
15 LET'S PUT HIM ON THE LIST.

16 MR. BYRNE: MAYBE A SUGGESTION WOULD BE IF
17 YOU LET THE PROSPECTIVE LIST ENTRANTS HAVE A CRACK
18 AT PROTECTING THEIR NAME BEFORE THEY GET TO IT.

19 CHAIRMAN JONES: BUT I DON'T THINK -- THIS
20 ISN'T A PUBLISHED LIST.

21 MR. BYRNE: BUT IT'S PUBLIC INFORMATION.

22 CHAIRMAN JONES: WELL, YOU KNOW, WE HAVE
23 CHRONIC VIOLATORS OF THE STANDARDS OF FACILITIES

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24 THROUGHOUT THE STATE. THAT IS A PUBLISHED LIST.

25 WE PUT IT ON THE WEB PAGE. WE PUT IT EVERYWHERE,

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1 YOU KNOW. OBVIOUSLY IF -- IN THAT ARENA IF, YOU
2 KNOW, IT IS A SELLING TOOL AS TO WHO'S THERE AND
3 WHO ISN'T.

4 I THINK WHAT THIS IS, AND MAYBE WE
5 NEED TO LOOK AT THE WORDS ON (D) A LITTLE BIT. I
6 DON'T KNOW IF THERE'S ANYTHING THAT WE CAN DO TO
7 CHANGE. MAYBE WE NEED TO SAY FAIL TO COMPLY WITH
8 THE SIGNIFICANT TERMS AND CONDITIONS, YOU KNOW, BUT
9 THAT'S AN ARBITRARY -- YOU KNOW, THAT'S A
10 SUBJECTIVE TERM TOO.

11 I DON'T KNOW HOW YOU DO THAT BECAUSE
12 I PERSONALLY WOULD PREFER BEING -- IF I'M IN YOUR
13 POSITION, I WOULD RATHER THIS CRITERIA -- I'D
14 RATHER HAVE THE OPPORTUNITY TO COME IN FRONT OF
15 THIS BOARD AND DISCUSS IT AS OPPOSED TO IT BEING A
16 CRITERIA ON THE RANKING WHEN YOU FILE AND YOU DON'T
17 KNOW WHY YOU DIDN'T GET A CONTRACT.

18 MR. BYRNE: I AGREE WITH THAT TOO, MR.
19 CHAIRMAN, BUT I'D LIKE TO HAVE THAT OPPORTUNITY
20 BEFORE I GET ON THE LIST.

21 MEMBER PENNINGTON: YOU WOULD. NOBODY IS
22 GOING TO GO ON THE LIST IF YOU APPEAL.

23 MR. BYRNE: UNTIL THEY GO BEFORE THE

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24 BOARD?

25 MEMBER PENNINGTON: IF YOU APPEAL, NOBODY

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1 IS GOING TO GO ON THE LIST UNTIL --

2 MR. BYRNE: IT WAS MY UNDERSTANDING THAT
3 THE LIST WAS GOING TO BE PREPARED AND YOU APPEALED
4 TO GET OFF IT.

5 MEMBER RELIS: IS THAT RIGHT?

6 MEMBER PENNINGTON: NO. NO.

7 CHAIRMAN JONES: WHAT THEY SAID WAS THAT
8 THEY WOULD NOTIFY.

9 MEMBER PENNINGTON: THEY WOULD NOTIFY
10 YOU --

11 MR. BYRNE: THAT YOU'RE A POTENTIAL TO GO
12 ON THE LIST?

13 MEMBER PENNINGTON: RIGHT. THAT THE
14 EXECUTIVE DIRECTOR HAS MADE A FINDING THAT YOU
15 SHOULD GO ON THIS LIST, AND YOU'VE GOT -- YOU KNOW,
16 I COME BACK AND STILL THINK WE NEED A TIME FRAME.
17 MAYBE IT'S A LONGER TIME FRAME, BUT THEN EVERYBODY
18 GETS TREATED THE SAME.

19 MR. BYRNE: IS THERE ANY WAY YOU COULD DO
20 THOSE HEARINGS IN CLOSED SESSION? I GUESS THERE
21 ISN'T.

22 MEMBER PENNINGTON: NO.

23 MR. BRYNE: ONCE AGAIN, I LOOK AT THAT AS

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24 A NEGATIVE.

25 MEMBER RELIS: DAN, WALK ME THROUGH THAT

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1 AGAIN. OKAY. THERE WOULD BE A LIST DRAWN UP.
2 THAT --
3 MEMBER PENNINGTON: COMPANY A BUYS A TRUCK
4 WITH THE MONEY THAT THEY WERE TO GET TO BUY A
5 COMPACTOR. SO THE STAFF SAYS WAIT A MINUTE. THIS
6 IS IN VIOLATION OF YOUR GRANT AGREEMENT, THAT YOU
7 WERE GOING TO BUY THESE COMPACTORS AND YOU BOUGHT A
8 TRUCK. AND SO WE'RE GOING TO TERMINATE YOUR
9 GRANT. SO THEN THE NEXT TIME THAT SOMETHING COMES,
10 SO THEN HE REPORTS THAT TO THE EXECUTIVE DIRECTOR.
11 THE EXECUTIVE DIRECTOR SAYS, "HEY, BOY, THIS IS
12 TERRIBLE. THESE PEOPLE WENT OUT AND SPENT OUR
13 MILLION-DOLLAR GRANT ON STUFF THAT ISN'T REALLY
14 GOING TO WORK," AND BLAH, BLAH, BLAH, "AND SO I'M
15 GOING TO PUT YOU ON THE LIST." BUT HE'S GOING TO
16 NOTIFY COMPANY A THAT THEY'RE GOING TO BE PLACED ON
17 THE LIST AND SAY, "YOU'VE GOT 120 DAYS TO APPEAL
18 THIS."
19 MEMBER RELIS: OKAY. SO THEY RECEIVE WORD
20 FROM US THAT, "OKAY, YOU ARE GETTING ON A LIST HERE
21 AT THE BOARD. AND IF YOU'VE GOT A PROBLEM WITH
22 THAT, YOU BETTER APPEAL IT BECAUSE OTHERWISE AFTER
23 THAT PERIOD OF TIME, YOU ARE ON THE LIST." AND

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24 THAT DIS- -- IF YOU ARE ON THE LIST, THEN YOU ARE
25 DISQUALIFIED.

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1 CHAIRMAN JONES: FOR THE NEXT THREE YEARS.

2 FOR THE NEXT THREE YEARS YOU ARE HISTORY.

3 MEMBER RELIS: SO THEN --

4 MEMBER PENNINGTON: YOU, COMPANY A, HAVE
5 GOT A HUNDRED TWENTY DAYS OR WHATEVER WE DECIDE IS
6 THE PROPER THING.

7 MR. BYRNE: AND APPEAL BACK TO RALPH OR
8 APPEAL TO YOU GUYS?

9 MEMBER PENNINGTON: NO, APPEAL TO THE
10 BOARD.

11 MR. BYRNE: SO YOU ARE ON THE LIST?

12 MEMBER PENNINGTON: YOU'RE NOT ON THE LIST
13 UNTIL AFTER WE --

14 MEMBER RELIS: WE VOTE THAT YOU ARE ON THE
15 LIST. IF IT COMES TO US, WE ACTUALLY MAKE A -- OR
16 THE EXECUTIVE OFFICER MAKES IT.

17 CHAIRMAN JONES: AS I READ THIS, BASED ON
18 THE STAFF PREPARATION, AND IT GOES TO THE EXECUTIVE
19 DIRECTOR AND THE EXECUTIVE DIRECTOR LOOKS AT
20 EVERYTHING AND HE SAYS, "THESE PEOPLE NEED TO BE
21 PUT ON THE LIST," THE PEOPLE ARE NOTIFIED THAT THEY
22 HAVE EITHER FAILED AN AUDIT, FAILED THE CONDITIONS
23 OF A GRANT, OR DID SOMETHING. AND I THINK IT'S AT

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24 THAT POINT, IF RALPH DECIDES THAT THEY'RE GOING TO
25 GO ON THE LIST, IS IT AT THAT POINT THAT THEY'RE

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1 NOTIFIED? AND THEN AT THAT POINT THEY HAVE A
2 CERTAIN AMOUNT OF TIME TO -- PROBABLY ME WITH RALPH
3 TO FIND OUT WHY. AND THEN AT SOME POINT --

4 MR. BEARD: I THINK WE'D HAVE SOME KIND OF
5 COVER MEMO WITH ALL THAT INFORMATION IN IT, WHAT
6 THE PROBLEM WAS AND THAT THEY HAVE X AMOUNT OF
7 DAYS, AND WHO TO CONTACT TO GO BEFORE THE BOARD IF
8 THEY WANT TO APPEAL IT.

9 MR. CHANDLER: I WOULD SUSPECT IT WOULD --
10 YOU KNOW, GETTING TO THIS ISSUE OF WHETHER YOU'RE
11 ON OR OFF, IT WOULD MAKE SENSE THAT THEY'RE NOT ON
12 THE LIST. THE WAY IT WOULD HAVE AN IMPACT WOULD BE
13 IF THERE WAS A GRANT AWARD GOING ON DURING THIS
14 TIME WHERE I GET SOME FILE SENT UP FROM THE STAFF
15 THAT THEY FEEL THE PERFORMANCE OF A CONTRACTOR OR
16 GRANTEE WAS WAY OUT OF LINE WITH THE TERMS AND
17 CONDITIONS OF THE GRANT.

18 DURING THAT PERIOD WE HAVE A GRANT
19 SOLICITATION OUT AND THESE FOLKS ARE IN AGAIN
20 ASKING FOR ANOTHER AWARD. I THINK IT WOULD BE
21 INAPPROPRIATE TO HAVE THAT INFORMATION INFLUENCE
22 THE NEXT AWARD DURING THAT 120-DAY PERIOD BECAUSE
23 THEY HAVEN'T PRESENTED -- I'M SORRY I'M POINTING AT

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24 YOU, MICHAEL -- BUT COMPANY A HASN'T COME FORWARD

25 AND PRESENTED ALL THE REASONS STAFF HAVE IT

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1 BACKWARDS, THAT THAT TRUCK ACTUALLY HAS A COMPACTOR
2 IN THE BACK OF IT, AND THEY THOUGHT THEY WERE
3 WITHIN THE TERMS AND CONDITIONS.

4 IN THE EVENT THAT THE BOARD SAYS THIS
5 APPEAL STANDS OR THEY CHOOSE NOT TO APPEAL IT AND
6 120 DAYS GOES BY, AT THAT POINT I GUESS THEY'RE NOW
7 ON AND THEY BECOME AFFECTED, IF YOU WILL, BY THAT
8 LISTING INASMUCH AS THEY WOULDN'T BE ENTITLED TO
9 ANOTHER GRANT AWARD. I THINK WE WERE ENVISIONING
10 IT MORE AFTER THE 120 DAYS WAS EXHAUSTED, SO THEY
11 COULD EFFECTIVELY, YOU KNOW, EXHAUST THEIR APPEAL
12 RIGHTS.

13 MEMBER RELIS: SO THERE WOULD BE NOTHING
14 IN THE -- UNTIL THE APPEAL WAS HELD OR THE TIME
15 ELAPSED, AFTER FORMAL NOTIFICATION FROM YOUR
16 OFFICE.

17 MR. CHANDLER: I THINK THAT AVOIDS
18 PREJUDGING SOMEONE'S --

19 MEMBER RELIS: A CONTRACTOR WHO HAS A
20 CURRENT PROPOSAL BEFORE US FOR A -- WOULD NOT BE
21 AFFECTED UNTIL THIS ACTUAL DECISION HAD BEEN MADE
22 EITHER FORMALLY OR DE FACTO BY NOT ACTING. THERE
23 WOULDN'T BE A CLOUD OVER THEM.

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24 MR. CHANDLER: I THINK IF WE DON'T DO
25 THAT, YOU RAISE THE PROBLEM IF WHAT HAPPENS TO THE

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1 APPEAL -- MY DECISION GETS REVERSED BY THE BOARD,
2 AND IN THE INTERIM YOU LOST A GRANT OPPORTUNITY
3 BECAUSE STAFF WAS TAKING THE FILE THAT STAFF
4 GENERATED AS PROOF POSITIVE THAT THEY SHOULDN'T BE
5 ENTITLED TO AN AWARD AND MORE INFORMATION COMES
6 FORWARD UNDER THE APPEAL.

7 I WOULD BE MORE COMFORTABLE WITH
8 HAVING THE BOARD IN SUPPORT OF MY FINDINGS OR
9 STAFF'S RECOMMENDATION AND MY CONCURRENCE AFTER THE
10 120 DAYS IS EXHAUSTED. I DON'T KNOW HOW MANY TIMES
11 WE'LL HAVE A SITUATION WHERE WITHIN THAT 120-DAY
12 PERIOD WE'VE GOT A GRANT CYCLE CULMINATING AND THIS
13 ENTITY HAPPENS TO BE APPLYING. BUT I THINK THAT'S
14 WHERE YOU HAVE A FINANCIAL IMPACT THAT WOULD BE
15 REALLY NEGATIVE ON A COMPANY THAT HASN'T EXHAUSTED
16 THEIR APPEAL RIGHTS.

17 MEMBER RELIS: RALPH, YOU WERE AT THE
18 ENERGY COMMISSION AND YOU DEALT WITH MANY CONTRACTS
19 BEFORE YOU CAME HERE AS OUR EXECUTIVE OFFICER.
20 WHAT WAS -- DID THE ENERGY COMMISSION HAVE ANY SORT
21 OF A BAD ACTOR?

22 MR. CHANDLER: NO.

23 MEMBER RELIS: I MEAN EVERYBODY SORT OF TO

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24 SOME DEGREE --

25 MR. CHANDLER: YEAH, I HAVE TO SAY IN THE

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1 ABSENCE OF THAT, THOUGH, WHAT YOU HAVE IS -- I
2 DON'T WANT TO CALL IT A RUMOR MILL BECAUSE THAT
3 ISN'T THE RIGHT WORD, BUT YOU HAVE STAFF'S VIEWS
4 THAT GET CIRCULATED THROUGHOUT THE YEARS.

5 MEMBER RELIS: SORT OF AN INFORMAL.

6 MR. CHANDLER: AN INFORMAL KIND OF, OH,
7 YOU WANT TO STEER CLEAR OF THESE FOLKS BECAUSE I'M
8 SURE YOU HEARD WHAT THEY DID THREE YEARS AGO ON THE
9 ENERGY EFFICIENCY CONTRACT OR WHATEVER. AND THAT
10 IS IN MY MIND JUST AS DAMAGING AS HAVING SOMETHING
11 THAT, ALBEIT THIS MAY HAVE ITS SHORTCOMINGS, WHERE
12 THERE'S NOTHING REALLY CUT AND DRY ABOUT HOW
13 SOMEONE SCORED LOW SIMPLY BECAUSE THEY HAD HEARD
14 THAT IN THE PAST THEIR PERFORMANCE WAS PRETTY WEAK.

15 I THINK THERE CAN BE AN ARGUMENT MADE
16 IF YOU ARE GOING TO WANT TO LOOK AT PAST
17 PERFORMANCE AND YOU LOOK AT APPLICANT'S PERFORMANCE
18 THAT FALLS IN ANOTHER AREA AFFECTING A NEW
19 APPLICATION, THE MORE STRUCTURE THE BETTER TO
20 AVOID, YOU KNOW, INJUSTICE.

21 CHAIRMAN JONES: YEAH. I AGREE. I SEE --

22 MR. CHANDLER: WITH THAT STRUCTURE COMES
23 PITFALLS. I RECOGNIZE THAT.

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24 CHAIRMAN JONES: RUMOR MILL IS A LOT MORE
25 DESTRUCTIVE THAN A WRITTEN POLICY BECAUSE IT

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1 AFFECTS ANY OF THE SUBJECTIVE SCORING WHERE IT'S 25
2 POINTS FOR THIS BECOME FIVE POINTS. AND YOU CAN
3 ALWAYS -- I MEAN THAT'S JUST SUBJECTIVE. YOU CAN
4 ARGUE ONE WAY OR ANOTHER WITH THE PEOPLE WHO DID
5 THE SCORING, YOU KNOW, AS TO WHY THEY DID IT THAT
6 WAY. I JUST THINK THAT IF WE HAVE A POLICY, THAT
7 IT'S EASIER FOR THE APPLICANT TO COME IN AND SAY,
8 "I OBJECT TO THIS. AND THIS IS WHY," YOU KNOW.
9 I JUST -- I THINK THAT THERE IS -- I THINK IT'S A
10 HELL OF A LOT -- HECK OF A LOT SAFER, YOU KNOW,
11 PERSONALLY.

12 MEMBER PENNINGTON: I DO TOO. AND I
13 RECOGNIZE THAT THERE ARE SOME PITFALLS, BUT I THINK
14 IF WE APPLY THE APPEALS PROCESS WELL, THAT THAT
15 ELIMINATES A LOT OF OUR PROBLEMS, ACTUAL PROBLEMS
16 THAT COULD ARISE.

17 CHAIRMAN JONES: I DO HAVE A COUPLE OF
18 QUESTIONS THOUGH. MR. RELIS IS ACCURATE, I THINK,
19 WHEN IT TALKS ABOUT (D) AND (G) AS FAR AS BEING
20 PRETTY, YOU KNOW, BROAD. IS THERE -- I THINK MAY
21 TAKES CARE OF SOME OF IT, BUT IS THERE ANYTHING
22 THAT WE CAN -- I MEAN EARLIER WHERE IT SAYS THEY
23 MAY MAKE A FINDING, IS THERE AN ADJECTIVE WE CAN

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24 PUT IN THERE THAT MAKES IT MORE SPECIFIC?

25 I MEAN, YOU KNOW, WE HAVE SOME TERMS

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1 AND CONDITIONS OF LANDFILL PERMITS THAT HAVE FIVE
2 PAGES OF CONDITIONS, YOU KNOW. SOME OF THEM ARE
3 REAL IMPORTANT; SOME OF THEM AREN'T IMPORTANT OR
4 NOT AS IMPORTANT. LET'S PUT IT THAT WAY.

5 CHAIRMAN PENNINGTON: I THINK UNDER "D,"
6 IF YOU SAID THAT THEY FAILED TO COMPLY WITH THE
7 TERMS AND THE CONDITIONS OF A PREVIOUS BOARD
8 CONTRACT, GRANT, LOAN, OR SUBCONTRACT, AND THESE
9 WERE TERMINATED.

10 MR. BEARD: THAT WOULD BE MY SUGGESTION.
11 ACTUALLY GOT TERMINATED BEFORE THE END OF THE TERM
12 OF THE CONTRACT OR GRANT.

13 MEMBER RELIS: THAT WOULD ADD -- I MEAN
14 THAT ADDS A LOT BECAUSE -- AND THAT'S GOOD BECAUSE
15 I THINK YOU ARE GETTING AT THE MAGNITUDE. THERE'S
16 A MAJOR BREACH THAT I WOULD READ INTO THAT WHICH
17 WOULD SATISFY MY CONCERN. WHEREAS, RIGHT THE WAY
18 IT IS ON FACE VALUE, GEE, I MEAN WE COULD ARGUE ALL
19 DAY OVER WHETHER YOU DID THIS AND I EXPECTED THAT,
20 AND I DON'T WANT TO HAVE TO DEAL WITH THAT AT THE
21 BOARD LEVEL.

22 CHAIRMAN JONES: BUT WHAT IF WE DIDN'T
23 DETERMINE UNTIL TWO OR THREE YEARS LATER THAT A

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24 TERM -- LET'S SAY THAT THROUGH AN INVESTIGATION OR
25 THROUGH ANOTHER GRANT PROCESS, WE FOUND OUT THAT

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1 SOMETHING THAT THEY HAD -- ONE OF THE TERMS AND
2 CONDITIONS THAT THEY HAD AGREED TO THREE OR FOUR
3 YEARS EARLIER, IN FACT, WE NEVER PICKED UP. WE
4 DIDN'T KNOW THAT THEY HAD BOUGHT THE COMPACTOR
5 UNTIL WE DID THIS -- TILL THEY APPLIED FOR ANOTHER
6 ONE. WOULD WE BE ABLE TO GO BACK AND SAY WAIT A
7 SECOND. WE DIDN'T CATCH YOU ON THIS ONE, BUT IT'S
8 OBVIOUS IN YOUR ASSET REPORT AS PART OF THIS THING
9 THAT WHAT YOU TOLD US YOU WERE GOING TO BUY YOU
10 DIDN'T BUY; YOU BOUGHT THIS?

11 MS. CLAYTON: I WOULD SAY, YES, WE SHOULD
12 BE ABLE TO DO THAT. THAT'S NOT WRITTEN IN THE
13 POLICY HERE, BUT THE LANGUAGE THAT I WOULD PROPOSE
14 TO TAKE CARE OF THAT, AND WE'LL RUN THROUGH THIS
15 BEFORE YOU ARE READY TO VOTE, WOULD BE TO ADD A
16 PARAGRAPH THAT SAYS WHEN THE FINDING IS MADE. THE
17 OBVIOUS TIME IS WHEN THE BOARD DISCOVERS THE
18 MISCONDUCT, AND THAT PROBABLY IS CLOSE TO THE TIME
19 OF THE MISCONDUCT.

20 BUT IF WE DON'T DISCOVER IT FOR YEARS
21 AND YEARS, THEN I WOULD SAY THAT ANOTHER TIME THAT
22 THE FINDING COULD BE MADE IS WHEN THE BOARD
23 RECEIVES AN APPLICATION FOR THE CONTRACT, GRANT, OR

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24 LOAN, SO AT ANY TIME AFTER THE MISCONDUCT OCCURS.

25 MEMBER RELIS: REMEMBER, WE HAD ONE

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1 CASE -- SOME OF YOU WEREN'T HERE WHEN THIS
2 OCCURRED -- WHERE A CERTAIN CHECK WAS ISSUED AND IT
3 WAS CASHED, I BELIEVE. AND THE CHECK WE DID NOT
4 INTEND TO ISSUE, AND WE DIDN'T DISCOVER THAT RIGHT
5 AWAY.

6 MEMBER PENNINGTON: I THINK THAT'S A GOOD
7 EXAMPLE TOO OF WHERE BOARD DISCRETION COULD COME
8 INTO PLAY OR EVEN THE EXECUTIVE DIRECTOR WHERE,
9 YES, THEY VIOLATED IT. BUT AS SOON AS WE FOUND
10 OUT, THEY MADE EVERY EFFORT TO MAKE RESTITUTION.
11 IT WAS OBVIOUS THAT IT WAS HANDLED BY THEM IN THE
12 RIGHT WAY WHEN IT WAS DISCOVERED, SO WE PROBABLY
13 WOULD NOT WANT TO PUT THEM ON THE LIST.

14 THAT OPPORTUNITY FOR US TO MAKE THAT
15 DECISION ALONG WITH THE EXECUTIVE DIRECTOR IS THERE
16 SO THAT IT DOES SHOW THAT, YOU KNOW, IF YOU TRY TO
17 AMEND WHAT YOU HAVE DONE WRONG AS OPPOSED TO
18 STEALING THE FILES OR SOMETHING.

19 MEMBER RELIS: YOU HAVE A PERIOD FOR
20 REPENTANCE.

21 CHAIRMAN JONES: MEA CULPA. MEA CULPA.

22 MR. BEARD: IF THERE WAS SOME TWO OR THREE
23 YEARS DOWN THE ROAD WHERE WE FOUND THAT THERE WAS

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24 SOMETHING WRONG WITH THE CONTRACT OR GRANT, IT
25 WOULD MORE THAN LIKELY COME FROM AN AUDIT THAT WE

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1 HAD HAD, AND WE WOULD HAVE FORMAL FINDINGS AND A
2 FORMAL STATEMENT OF OPINION THAT WOULD COME OUT OF
3 THAT.

4 CHAIRMAN JONES: OKAY. ALL RIGHT. SO THE
5 LANGUAGE WOULD BE SOMETHING WHEN THE FINDING IS
6 MADE.

7 MS. CLAYTON: I WOULD GIVE TWO OPTIONS.
8 I'D SAY AFTER THE BOARD DISCOVERS THE MISCONDUCT.
9 AND AGAIN, I'LL READ THIS PROPOSED LANGUAGE
10 ALTOGETHER BEFORE YOU ARE READY TO VOTE. SO THAT
11 MEANS ANY TIME AFTERWARDS. IT COULD BE IMMEDIATELY
12 AFTER, BUT IF WE DON'T DISCOVER IT FOR TWO OR THREE
13 YEARS OR FIVE YEARS, THEN WE COULD MAKE THE FINDING
14 AT THE TIME OF DISCOVERY OR WHEN WE RECEIVE AN
15 APPLICATION.

16 IF SOMETHING IN THE APPLICATION
17 TRIGGERS US TO DISCOVER MISCONDUCT THAT'S HAPPENED
18 MANY YEARS AGO, WE COULD MAKE THE FINDING AT THAT
19 TIME. THEN THE POLICY WOULD BE IN PLACE FOR THREE
20 YEARS FROM THE TIME OF THE FINDING.

21 MEMBER RELIS: AND WHAT CONSTITUTES
22 MISCONDUCT? I MEAN THAT'S WHERE, YOU KNOW, I WANT
23 TO BE SATISFIED PERSONALLY THAT, AGAIN, WE'RE

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24 TALKING ABOUT GRAVE VIOLATIONS, NOT MISUNDER-
25 STANDINGS. OR IS THERE A WAY TO PHRASE THAT?

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1 MS. CLAYTON: SHALL WE -- THAT'S WHAT'S
2 LISTED IN PARAGRAPH 2, AND WE HAD STARTED TO WORK
3 ON SOME SUBSTITUTE LANGUAGE FOR (D). IF YOU WANT
4 TO GO BACK TO THAT, ONE OPTION SOMEBODY THREW OUT
5 WAS INSTEAD OF THE WAY (D) IS WRITTEN, WE WOULD
6 CHANGE IT SO IT READS, "BREACHED THE TERMS AND
7 CONDITIONS OF A PREVIOUS CONTRACT, GRANT, OR LOAN
8 AND THAT AGREEMENT WAS TERMINATED BY THE BOARD."

9 MEMBER PENNINGTON: I LIKE THAT.

10 CHAIRMAN JONES: THAT WILL WORK.

11 MEMBER RELIS: THAT'S FINE. THAT'S A LOT
12 BETTER.

13 CHAIRMAN JONES: AND THEN ON (G),
14 CURRENTLY IN VIOLATION OF ANY BOARD STATUTE OR
15 REGULATIONS WITH THE EXCEPTION OF GRANTS. AND I
16 KNOW THAT'S THE OIL MONEY THAT SAYS IT SHALL BE --
17 IT SHALL BE DELIVERED TO THEM.

18 HOW DO WE -- HOW DO WE MAKE SURE THAT
19 WE'RE NOT SETTING UP A POLICY THAT IN TEN YEARS IS
20 GOING TO BE INTERPRETED THAT ANYBODY WITH A LITTER
21 VIOLATION IS EXCLUDED FROM A GRANT OR A LOAN OR A
22 CONTRACT?

23 MEMBER RELIS: WELL, STEVE, EVEN MORE SO.

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24 SUPPOSE I HAVE KNOWLEDGE, I'M A COMPETITOR FOR A
25 CONTRACT, AND I HAVE KNOWLEDGE THAT YOU HAVE -- YOU

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1 KNOW, I'LL JUST COMB YOUR WHOLE HISTORY HERE, AND I
2 CAN SPOT LITERALLY A VIOLATION. I'M GOING TO
3 NOTIFY THE BOARD THAT TECHNICALLY YOU CAN'T GET A
4 CONTRACT. YOU ARE IN VIOLATION. THAT WOULD BE A
5 NIGHTMARE.

6 WE'D HAVE COMPETITORS GOING AFTER
7 EACH OTHER. SO I'M WONDERING -- I WOULD PROPOSE
8 ACTUALLY THAT WE STRIKE (G). AND THEN -- BECAUSE I
9 THINK THOSE TYPES OF ISSUES -- WELL, UNLESS YOU CAN
10 COME UP WITH SOME LANGUAGE THAT PREVENTS THAT
11 CONUNDRUM FROM OCCURRING, I DON'T KNOW WHAT IT DOES
12 FOR US. MAYBE SOMEONE CAN EXPLAIN WHY THAT
13 LANGUAGE IS CRITICAL TO THIS POLICY.

14 MR. BEARD: IF YOU WERE TO STRIKE IT, THEN
15 YOU COULD GO UNDER THE ASSUMPTION THAT IF IT WAS
16 SEVERE ENOUGH, IT WOULD FALL UNDER ONE OF THE OTHER
17 CRITERIA.

18 MEMBER RELIS: THAT WOULD BE --

19 CHAIRMAN JONES: OR IT DIDN'T, WHAT ABOUT
20 THE CHRONIC VIOLATORS THAT -- THAT WOULD BE -- SEE,
21 A LOT OF THE CHRONIC VIOLATORS ARE THERE BECAUSE
22 THEY CAN'T AFFORD TO MAKE THE CLOSURE-POSTCLOSURE
23 FUNDING, THOSE TYPES OF THINGS. THEY DON'T HAVE

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24 THE MECHANISMS. THEY DON'T HAVE A PERMIT IN PLACE.

25 MEMBER RELIS: SO WHAT WE'D BE SAYING -- I

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1 KNOW WE ALL HAVE AN ITEM UP TOMORROW, I BELIEVE, ON
2 PERMITS AND ENFORCEMENT. AGAIN, I'M SEARCHING
3 FOR -- OKAY. WE HAVE -- WE KNOW THERE'S CERTAIN
4 VIOLATIONS BY CERTAIN JURISDICTIONS IN THE STATE
5 THAT MAY WANT A GRANT OR CONTRACT FROM THIS BOARD.
6 THAT IN ITSELF THE VIOLATION IS SERIOUS; BUT IF WE
7 WERE ALLOWED TO GIVE A GRANT THAT COULD CLEAR UP
8 THE VIOLATION, BUT WE CANNOT DO THAT BECAUSE
9 THEY'RE IN VIOLATION. THAT -- I WOULD HATE TO SEE
10 US CRIPPLE OURSELVES. I FEEL LIKE WE'D BE SHOOTING
11 OURSELVES, SELF-INFLICTED INJURY.

12 MS. CLAYTON: HERE'S A SUGGESTION FOR (G).
13 THE CHRONIC VIOLATORS, IF WE STRUCK (G), I DON'T
14 THINK WOULD BE TAKEN CARE ON THE OTHER ITEMS. SO
15 WE COULD CHANGE (G). THIS WOULD SEVERELY LIMIT US.
16 IT GOES ON TO SAY IF THEY'RE ON THE CHRONIC
17 VIOLATOR LIST OR THEY'RE CURRENTLY UNDER AN
18 ENFORCEMENT ACTION.

19 CHAIRMAN JONES: UNFORTUNATELY THE ENTITY
20 THAT PAUL'S TALKING ABOUT IS ON BOTH.

21 MEMBER RELIS: I MEAN --

22 CHAIRMAN JONES: THEY'RE ON BOTH.

23 MS. CLAYTON: I DON'T HAVE THE BACKGROUND

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24 ON THAT. IN GENERAL, WOULD THAT WORK?

25 MEMBER RELIS: WELL, IT WOULDN'T -- I

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1 THINK WE'D BE IN THE CONUNDRUM.

2 CHAIRMAN JONES: WHAT -- WHAT HOLES HAVE
3 WE LEFT IF WE TAKE (G) OUT? HOW DO WE DEAL WITH --
4 BECAUSE WE'VE SAID -- OKAY. WE'RE DEALING WITH
5 FRAUD, DEFAULT ON A LOAN, PROPERTY WAS REPOSSESSED,
6 BREACHED THE CONTRACT, FILED BANKRUPTCY, CONVICTED
7 OF A CRIME. I KNOW WHAT YOU ARE TRYING TO GET AT.
8 I THINK YOU'RE RIGHT. THERE ARE SOME STATUTES AND
9 REGULATIONS THAT WOULDN'T FALL WITHIN ANY OF THOSE
10 CATEGORIES.

11 MR. BEARD: WHAT IF WE ADDED SOMETHING
12 THAT HAD TO DO WITH THERE WAS A -- EITHER AN
13 INTERNAL OR EXTERNAL AUDIT THAT HAD A STATEMENT OF
14 OPINION THAT WAS DONE WHICH WOULD MEAN IT WOULD BE
15 FORMALLY FINISHED; AND THEN IF WE DO HAVE THESE
16 CHRONIC VIOLATORS, THEN WE COULD ALWAYS HAVE THEM
17 AUDITED. I MEAN THERE'S WAYS TO WORK THAT AROUND.
18 I DON'T KNOW IF YOU WANT TO GO TO THAT DRASTIC OF
19 AN EXTREME. HOW DO WE DECIDE WHO GETS AUDITED AND
20 WHO DOESN'T, I GUESS, AND YOU COME BACK TO THAT
21 PROBLEM. THAT WOULD GIVE US A FORMAL FINDING.

22 CHAIRMAN PENNINGTON: THAT'S A PROBLEM
23 NOW, WHO GETS AUDITED.

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24 MR. BEARD: YES.

25 MEMBER RELIS: TELL ME --

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1 MEMBER PENNINGTON: LIFE'S LITTLE
2 MYSTERIES.

3 MEMBER RELIS: SOMEBODY TELL ME WHAT WOULD
4 WE LOSE IF WE LOST THIS ONE.

5 MS. CLAYTON: (G)? WE WOULD LOSE -- THIS
6 IS BIG. THIS IS VERY BIG. WE WOULD LOSE ANY
7 LANDFILL THAT HAS -- THAT'S LATE IN THEIR FINANCIAL
8 ASSURANCE PAYMENT, THAT HAS ONE LITTER VIOLATION ON
9 THEIR RECORD, ANYBODY WHO'S SUBJECT TO ANY TYPE OF
10 ENFORCEMENT ACTION AT THIS TIME. WE WOULD LOSE ANY
11 COUNTY THAT DOESN'T HAVE THEIR PLANNING ELEMENTS IN
12 PLACE, EITHER THEY HAVEN'T BEEN APPROVED OR THEY
13 JUST HAVEN'T SUBMITTED THEM.

14 MEMBER RELIS: SO THIS WOULD BE LIKE THE
15 EQUIVALENT WHEN YOU HAVE FEDERAL LEGISLATION AND
16 THE STATE DOESN'T COMPLY, LET'S JUST SAY, IN THE
17 CONTEST. THEN YOU YANK THE FUNDING OPTION BECAUSE
18 THEY KNOW THAT THEY WON'T QUALIFY.

19 MEMBER PENNINGTON: YOU PULL THE HIGHWAY
20 FUNDS.

21 MEMBER RELIS: YOU PULL THE HIGHWAY FUNDS.
22 IT'S KIND OF LIKE THAT. IT'S THAT BIG.

23 MS. CLAYTON: IT'S THAT BIG AND IT'S A

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24 CATCH 22.

25 MEMBER RELIS: BUT THEN I WOULD ARGUE

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1 THAT -- AND WE HAVE TO PRESERVE, AND MAYBE I'M
2 WRONG ON THIS, BUT THE ABILITY TO BE CREATIVE WITH
3 OUR RESOURCES TO SOLVE THE PROBLEMS THAT THE BOARD,
4 WHETHER THEY'RE ENFORCEMENT PROBLEMS, AND IF WE
5 WERE TO TIE OURSELVES UP AND CONSTRICT OUR ABILITY
6 TO DO THAT, WOULD WE NOT ACCOMPLISH LESS?

7 MEMBER PENNINGTON: REMEMBER THOUGH, THIS
8 IS STILL SUBJECTIVE BECAUSE IT SAYS MAY FIND THEM
9 AND PUT THEM ON THIS LIST. IF WE SEE A WAY TO
10 CORRECT THE PROBLEM, WE DON'T PUT THEM ON THE LIST.

11 MEMBER RELIS: AGAIN, IF I'M A COMPETITOR,
12 AND I WANT TO FORCE THE MAY, I WANT TO FIND OUT
13 WHAT YOU ARE GOING TO DO. OH, SO YOU ARE NOT GOING
14 TO DO ANYTHING, MEANING I'M WATCHING YOU. MR.
15 CHANDLER MAKES THE DECISION THAT IT'S A -- I'M NOT
16 GOING TO EXERCISE THE MAY AND THEN, OKAY, SO WHAT
17 ARE YOU GUYS UP TO? I'M JUST READING IN THE
18 UNFORTUNATELY THE DARK SIDE.

19 MEMBER PENNINGTON: IF MR. CHANDLER SAYS,
20 YEAH, WE'RE GOING TO PUT THEM ON THE LIST AND THEY
21 APPEAL TO US AND WE SAY -- AND THEY SAY, "WELL, YOU
22 KNOW, IF WE GET THIS GRANT, WE'LL CLEAR UP THIS
23 VIOLATION." AND CERTAINLY WE WOULD HAVE THE OPTION

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24 OF SAYING, "FINE. OKAY. LET'S GO FORWARD, BUT YOU
25 HAVE TO CLEAN UP THE VIOLATION WITH THE GRANT."

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1 THEN IF THEY DON'T, THEY GET ON THE LIST TWICE.

2 MS. CLAYTON: HOW ABOUT THIS FOR (G)? HAS
3 BEEN IN VIOLATION OF ANY BOARD STATUTE OR REG FOR A
4 YEAR OR MORE. SO THIS GETS TO A CHRONIC VIOLATOR,
5 BUT IT'S NOT JUST LANDFILLS. IT WOULD BE --

6 CHAIRMAN JONES: OUR SAME GUY. I ACTUALLY
7 THINK -- I CAN SEE THIS COMING INTO PLAY IN ANOTHER
8 YEAR OR SO WHEN THE SRRE'S STILL HAVEN'T BEEN
9 RECEIVED FROM SOME COMMUNITIES, AND IT'S A PRETTY
10 GOOD HAMMER TO HAVE. BUT I'M WONDERING IF WE CAN,
11 SAY, LEAVE THAT IN PLACE, BUT WE HAVE AN EXCEPTION.
12 THE EXCEPTION IS GRANTS AWARDED PURSUANT TO PRC
13 CODE. CAN WE HAVE THE OTHER EXCEPTION THAT WHERE
14 THE GRANT IS TO REMEDIATE THE SOURCE OF THE
15 VIOLATION?

16 MR. BEARD: YOU WANT IT TO BE GRANT OR
17 CONTRACT?

18 CHAIRMAN JONES: GRANT, CONTRACT, OR LOAN
19 WHERE IT IS THERE TO REMEDIATE THE SOURCE OF THE
20 VIOLATION, STATUTE OR REGULATORY. WOULDN'T THAT
21 GIVE US THE OPPORTUNITY TO BE ABLE TO HAVE THE BEST
22 OF BOTH WORLDS MAYBE?

23 MEMBER RELIS: I LIKE THAT LANGUAGE.

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24 MEMBER PENNINGTON: COULD YOU --

25 MS. CLAYTON: LET'S TRY THIS LANGUAGE.

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1 CURRENTLY IN VIOLATION OF ANY BOARD STATUTE OR REG
2 WITH THE EXCEPTION OF BLAH, BLAH, BLAH, PRC 48690
3 AND WITH THE EXCEPTION THAT THE GRANT, CONTRACT, OR
4 LOAN IS FOR THE PURPOSE OF RESOLVING THE VIOLATION.
5 ONE OF YOU SAID REMEDIATING. I THOUGHT MAYBE WE
6 WOULD STAY AWAY FROM THAT WORD SINCE WE USE THAT
7 FOR CLEANUP LANGUAGE AND USE RESOLVING.

8 MEMBER PENNINGTON: WHAT ABOUT DO WE STILL
9 WANT TO USE THE YEAR OR MORE?

10 MS. CLAYTON: I DON'T KNOW THAT THE YEAR
11 OR MORE WOULD COME TOGETHER WITH THIS CONCEPT.

12 MEMBER RELIS: I THINK THAT IT IS
13 UNNECESSARILY RESTRICTIVE, NOT -- I THINK IF YOU
14 STATE THAT YOU ARE GOING TO CURE SOMETHING, THAT'S
15 PROBABLY THE MORE IMPORTANT ISSUE. WHETHER IT'S A
16 YEAR OR THREE YEARS, IF WE CAN CURE SOMETHING,
17 THAT'S WHAT WE'RE IN BUSINESS TO TRY.

18 MEMBER PENNINGTON: I WAS ONLY THINKING OF
19 THE CHRONIC VIOLATIONS WHERE, I MEAN, YOU'VE GOT A
20 LITTER VIOLATION AND IT GOES ON AND ON AND ON, AND
21 IT'S NEVER CLEARED UP, THERE'S NO GOOD FAITH EFFORT
22 TO CLEAN IT UP. AT LEAST YOU CAN SAY, "LOOK.
23 WE'VE BEEN TALKING TO YOU FOR A YEAR HERE ABOUT

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24 THIS PROBLEM. "

25 CHAIRMAN JONES: WELL, THEY'D BE EXCLUDED

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1 UNLESS WHAT THEY WERE ASKING FOR WAS FUNDING TO DO
2 A LITTER CONTROL PROGRAM, WHICH WE WOULDN'T GIVE
3 ANYWAY, RIGHT? BUT IN SOME CASES WHERE WE MAY GIVE
4 A GRANT TO CLEAN UP A TIRE PILE THAT IS PART OF THE
5 ONGOING VIOLATION, WE COULD DO THIS BECAUSE IT
6 WOULD BE PART OF THE WAY TO RESOLVE THE PROBLEM.

7 MEMBER RELIS: MAY I MAKE A SUGGESTION? I
8 THINK WE'RE IN GENERAL AGREEMENT, AND WE'RE AT A
9 WORDSMITHING. AND I WOULD BE CONTENT, YOU KNOW,
10 TO, IF IT WAS ACCEPTABLE TO THE OTHER COMMITTEE
11 MEMBERS, TO MOVE THIS FORWARD SUBJECT TO THE
12 LANGUAGE BEING WORKED ON WITH ADVISORS.

13 MEMBER PENNINGTON: FINE.

14 MEMBER RELIS: THAT WAY WE DON'T HAVE TO
15 WORK EVERY WORD OUT BECAUSE WE NEED THE LEGAL AND
16 CONTRACT PEOPLE TO CAREFULLY LOOK OVER.

17 CHAIRMAN JONES: BUT IN CONCEPT WE'RE
18 AGREEING WITH THE POLICY.

19 MEMBER RELIS: YEAH, WITH THE CHANGES.

20 CHAIRMAN JONES: WITH THE CHANGES THAT
21 WE'VE DONE, AND WE'LL JUST DEAL WITH THE
22 WORDSMITHING.

23 IS THERE ANY OTHER DISCUSSION, MR.

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24 CHAIRMAN?

25 MEMBER PENNINGTON: THE ONLY OTHER THING

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1 IS IS THAT I WOULD LIKE -- WE TALKED ABOUT IT EARLY
2 ON ABOUT THE TIME FRAME. I THINK WE DO NEED A
3 SPECIFIC TIME FRAME. AND THE REASON FOR THAT IS IS
4 THAT YOU -- IF WE TRY TO GEAR IT TO COMMITTEE AND
5 BOARD MEETINGS, ONE PERSON MIGHT END UP GETTING,
6 YOU KNOW, 45 DAYS AND ANOTHER PERSON MAY ONLY GET
7 30 DAYS.

8 MS. CLAYTON: FOR THE APPEAL? 60, YOU
9 WANT TO CHOOSE 60 DAYS?

10 MEMBER PENNINGTON: SIXTY OR 90, MAYBE.

11 MR. BEARD: THREE MONTHS.

12 MEMBER PENNINGTON: GIVE YOU THREE MONTHS.

13 MEMBER RELIS: IS IT OKAY IF THEY JUST
14 RECOMMENDED TO US AFTER THEY'VE --

15 MEMBER PENNINGTON: SURE. THAT'S FINE.

16 CHAIRMAN JONES: NOT TO EXCEED 90 DAYS.

17 MEMBER PENNINGTON: YEAH, WHATEVER YOU ALL
18 THINK IS AN APPROPRIATE TIME PERIOD, BUT I THINK
19 THAT OTHERWISE WE ALLOW SOME TO GET A LONGER PERIOD
20 OF APPEAL THAN OTHERS.

21 MS. CLAYTON: ONE FINAL SMALL ISSUE THAT
22 WAS BROUGHT UP IN THE BRIEFINGS. A COUPLE OF YOU
23 HAD SUGGESTED THAT WE BROADEN THIS SO THAT THE

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24 MISCONDUCT APPLIES NOT JUST TO BOARD CONTRACTS,
25 GRANTS, AND LOANS, BUT ANY STATE AGENCY. THIS BEGS

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1 THE QUESTION IS HOW DO WE KNOW.

2 CHAIRMAN JONES: JUST PROVIDING THE
3 INFORMATION.

4 MS. CLAYTON: IF WE BROADEN THIS, SO
5 INSTEAD OF EVERY TIME IN THE POLICY WE SAY BOARD
6 CONTRACT, GRANT, OR LOAN, WE SAID STATE OF
7 CALIFORNIA CONTRACT, GRANT, OR LOAN, IT COULD BE
8 MORE FLEXIBLE, BUT IT WOULD BE SUBJECT TO US
9 FINDING OUT AND WE -- THAT THERE HAS BEEN SOME
10 MISCONDUCT.

11 MEMBER PENNINGTON: AND YOU'RE RIGHT.
12 WE'RE GOING TO GET EVERY COMPETITOR IN HERE AND SAY
13 HE HAD A DWI.

14 CHAIRMAN JONES: I THINK WE BETTER LEAVE
15 IT TO BOARD. I THINK WE SHOULD LEAVE IT TO BOARD.
16 YOU ARE GOING TO KNOW -- WE'RE GOING TO KNOW. AND
17 I'M ASSUMING THAT THIS POLICY MAKES CHANGES IN THE
18 FILING FOR ANY OF THOSE THINGS. AND ISN'T ONE OF
19 THE QUESTIONS THAT'S NORMALLY IN A STATE CONTRACT
20 IS HAVE YOU HAD ANY PROBLEMS WITH FULFILLING OTHER
21 STATE CONTRACTS? I KNOW THEY WERE ON ONES I USED
22 TO HAVE TO FILL OUT.

23 MR. BEARD: I THINK THAT'S PART OF OUR

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24 BASIC BOILERPLATE.

25 CHAIRMAN JONES: IT SEEMED TO ME I'VE HAD

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1 TO DO IT. I THINK IF WE GET IN THE STATE, WE GET
2 INTO THE ARGUMENT ABOUT WHICH STAFFER DIDN'T LIKE
3 THIS GUY. YOU KNOW WHAT I MEAN? BUT I THINK AT
4 THE BOARD WE PROTECT THEM. I THINK THIS MAKES
5 SENSE, AND IT GIVES US A POLICY WHERE IF PEOPLE SAY
6 I'VE BEEN TREATED UNJUSTLY, WAIT A SECOND. WE HAVE
7 A POLICY ON HOW WE'RE GOING TO TREAT YOU, YOU KNOW.
8 THAT, TO ME, IS -- I'M A LOT MORE COMFORTABLE WITH
9 KNOWING WHAT I'VE GOT TO DEAL WITH AS OPPOSED TO
10 THE WHIM OF THE DAY.

11 MEMBER PENNINGTON: SO I'LL SECOND MR.
12 RELIS' MOTION.

13 CHAIRMAN JONES: OKAY.

14 MEMBER RELIS: AND THE MOTION WAS THAT WE
15 WOULD -- I'M MOVING THE PROPOSED POLICY WITH
16 LANGUAGE CHANGES THAT HAVE BEEN SPECIFIED RELATED
17 TO (D) AND (G) AND THAT STAFF WILL WORK WITH THE
18 ADVISORS TO --

19 MEMBER PENNINGTON: I THINK --

20 MEMBER RELIS: -- REFLECT THAT IN
21 LANGUAGE.

22 MEMBER PENNINGTON: THERE MAY BE A COUPLE
23 OF OTHER THINGS THAT THE ADVISORS WANT --

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24 MR. SMITH: TIME FRAME.

25 MEMBER RELIS: ALONG WITH A STAFF PROPOSED

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1 TIME FRAME.

2 MS. CLAYTON: AND THE APPEAL PROCESS.

3 CHAIRMAN JONES: AND THE APPEAL PROCESS.

4 THAT WAS THE OTHER THING. OKAY. AND THAT IS GOING

5 TO BE IN RESOLUTION 97-356, MR. RELIS?

6 MEMBER RELIS: THAT'S CORRECT.

7 CHAIRMAN JONES: MR. PENNINGTON SECONDS.

8 MEMBER PENNINGTON: PENNINGTON SECONDS.

9 CHAIRMAN JONES: MS. BAKULICH, WILL YOU

10 TAKE A VOTE.

11 THE SECRETARY: BOARD MEMBER RELIS.

12 MEMBER RELIS: AYE.

13 THE SECRETARY: MEMBER PENNINGTON.

14 MEMBER PENNINGTON: AYE.

15 THE SECRETARY: CHAIRMAN JONES.

16 CHAIRMAN JONES: AYE. ALL RIGHT. I WANT

17 TO THANK THE STAFF. THIS WAS NOT EASY. YOU GUYS,

18 I THINK, DID A GOOD JOB.

19 MEMBER PENNINGTON: GUYS AND GALS.

20 CHAIRMAN JONES: GUYS AND GALS. GUYS TO

21 ME IS SUBJECTIVE. IT'S ALL OF YOU. GUYS -- TO BE

22 POLITICALLY CORRECT, YOU ALL DID A GREAT JOB.

23 OKAY. ANYBODY GOT ANYTHING THEY WANT

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24 TO SAY UNDER OPEN DISCUSSION? HEARING NONE,

25 COMMITTEE IS ADJOURNED. THANK YOU.

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(THE MEETING WAS THEN ADJOURNED AT

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10:45 A.M.)

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